



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

#4

COPY MAILED

SEP 29 1995

SPECIAL PROGRAMS OFFICE  
DAC FOR PATENTS

Phong K. Truong  
Fenwick & West  
Two Palo Alto Square, Suite 600  
Palo Alto, CA 94306

In re Application of :  
Gabriele Bungart :  
Application No. 08/420,241 : DECISION DISMISSING PETITION  
Deposited: April 11, 1995 :  
Attorney Docket No. 1779 :

This is a decision on the communication filed on May 30, 1995, which is being treated as a petition requesting that the above-identified application be treated as a continuation application under 37 CFR 1.60, and be considered as being completed on May 30, 1995.

On April 11, 1995, the application was deposited as continuation application under 37 CFR 1.60 based on prior application No. 08/234,032 and was erroneously granted a filing date of April 11, 1995. On May 3, 1995, Application Division mailed a Notice stating that a copy of the declaration filed in the parent application was missing.

In response, on May 30, 1995, the present petition including a copy of the missing declaration and the required surcharge for the late filing of the copy of the declaration were filed. The petition is construed as requesting that the application be considered as a proper filing under 37 CFR 1.60.

As so construed, the petition is dismissed.

The application was improperly filed under 37 CFR 1.60 since an application filed pursuant to 37 CFR 1.60 must name the same or less than all of the inventors named in the prior application. The instant application names more.

To correct applicants filing error, a petition under 37 CFR 1.182 may be filed requesting that the application be considered as an application filed under 37 CFR 1.53, not 37 CFR 1.60, and using the declaration executed by all of the named inventors filed therewith.

Applicants are given **ONE MONTH** from the date of this decision to file a petition under 37 CFR 1.82, requesting that the request for an application under 37 CFR 1.60 be disregarded and that the

application be considered as a continuation application in accordance with 35 USC 111 and 37 CFR 1.53.

No petition fee is required since the surcharge fee filed on May 30, 1995 will be applied toward the petition fee.

Failure to file a timely petition will result in the return of the application to Application Division for treatment as an improperly filed application under 37 CFR 1.60, with no filing date granted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Assistant Commissioner for Patents  
                    Box DAC  
                    Washington, D.C. 20231

By Fax :           (703) 308-6916  
                    Attn: Special Program Law Office

By hand:           One Crystal Park, Suite 520  
                    2011 Crystal Drive  
                    Arlington, VA

Telephone inquiries related to this decision should be directed to the Office of Petitions staff at (703) 305-9282.

*Peter Kuf*  
for

Fred A. Silverberg  
Senior Legal Advisor  
Special Program Law Office  
Office of the Deputy Assistant Commissioner  
for Patent Policy and Projects

ror